The New Mexico Pay Equity Initiative
A Template for Narrowing the Gender Pay Gap

by

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ABSTRACT

General Description: This paper describes the New Mexico Pay Equity Initiative, which was instituted by Governor Bill Richardson's administration over a two year period (2009-2011). The Initiative built on recommendations from an Equal Pay Task Force created by the New Mexico State legislature in 2003, and a subsequent task force created by the governor in 2008. The paper discusses the rationale, policies, methodology and outcomes of the initiative, highlighting it as one way to serve the goal of achieving pay equity as embodied in the Paycheck Fairness Act and the Fair Pay Act, and also to advance the goal of government accountability and transparency. Implications for the future development and replication by other entities are included.

Women's Bureau goals addressed: 1) reflect upon and celebrate the accomplishments of public policies related to women, and 2) highlight present day issues and future DOL policy priorities around women's rights and opportunities in the workplace.

Importance: The New Mexico Pay Equity Initiative requiring gender pay equity reports of entities seeking contracts with the state is the only one of its kind in the country . It is a significant effort, and took two years to implement following earlier task forces and sets of recommendations. It can serve as a template for other government entities is advancing pay equity.

Key words: women, gender pay gap, contracting, executive orders, pay equity, equal pay

BACKGROUND

In 2003 the New Mexico state legislature created an Equal Pay Task Force to explore the problem of wage disparities in the state between men and women and between minorities and non-minorities, in both the public and private sectors. The Task Force issued a report with a number of recommendations (including pay equity legislation which advocates had been working to bring about for years) which were not immediately acted upon.

After concluding that legislation had little chance of passing, and that the governor had the authority to act by Executive Order (EO), in 2008 Governor Bill Richardson issued an Executive Order declaring pay equity a priority for the State of New Mexico. The EO created a second Task Force, which consisted of directors and senior personnel from relevant state cabinet departments, non-profit organizations concerned with pay equity, and members of the private sector representing business interests. (Appendix III)

The Task Force recommended a preliminary study of gender pay gaps and job segregation of the state classified workforce in some representative departments, to be followed by a study of all

departments.[1] Governor Richardson appointed a nationally recognized expert as Senior Advisor on Women's Issues to direct and carry out the study with support from the Office of State Personnel.

In September 2009 a gender pay equity study of the entire New Mexico state classified workforce (19,000+ employees) was completed.[2]

The results of the study were generally positive, with gender pay gaps lower than national averages, no apparent glass ceilings, and no evidence that job segregation led to gender wage gaps. Specifically:

- Gender wage gaps were found in all state departments in this study, across the great majority of job titles and pay bands. Overall, the gender wage gaps favored women, in both number and size. In all departments, most gaps were in the very low to moderate range, with a few larger exceptions on both sides.

- At the time of the study, females nationally were earning 80.2 cents to the male dollar for full-time, year-round work, resulting in a gender wage gap of almost 20% favoring males. Very few of the departments in the New Mexico state government had pay gaps as wide as the national averages in any pay band, and most had much smaller gaps. New Mexico has had the Hay Guide Chart Profile method of job evaluation in place for its for state employees for several years. Experts agree that gender wage gaps are expected to be smaller for public employers than for private employers, largely because of governments' use of systematic procedures such as the Hay System.

- Even though "glass ceilings" are a well-documented problem nationally, there were no apparent "glass ceilings" in the departments studied. This is a good indication that promotion practices as related to gender in the state workforce are likely to be fair and equitable.

- Job segregation (e.g. job titles that are totally or predominately held by one gender) is also a problem nationally, and New Mexico is no exception. However, the study indicated that the job segregation found in the state classified workforce does not lead to gender wage gaps, as it does in the nation as a whole. The state recognizes that gender segregation in jobs is a problem for diversity and should be addressed to produce a more balanced workforce.

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[1] A six-department pilot study was conducted to test methodology and procedures using gender pay gaps by job title as baseline data. This analysis proved inconclusive, due to job segregation between women and men in most departments, which resulted in many job titles with too few women or too few men for meaningful comparison. Job titles were then collapsed across pay bands in each department, and this was also the method for the larger study of 19,000 employees. This methodology yielded much more meaningful data.

[2] While the state recognized that race and ethnicity also substantially impact wage gaps, it was not possible to gather reliable data on race and ethnicity. This information is optional for employees, and some employee records went back as far as 25 years, when the only categories available were White and Hispanic. The state did, however, use the opportunity to update records on these factors, with the goal of expanding future wage gap studies to include them.

THE INITIATIVE

Governor Richardson issued a second Executive Order in 2009 to further the goal of eliminating gender and wage pay gaps in the State of New Mexico. Provisions included:

- Appointment of a Working Group to construct a process for addressing problems identified in the study of state government departments, and requiring all cabinet departments to submit a gender pay gap report to the governor on an annual basis.

- Extending the requirement for studying and correcting any gender pay gaps and job segregation to entities holding contracts with the state government. The Working Group, consisting of cabinet secretaries or their designees from the General Services Department, State Personnel, State Purchasing, and the State Department of Workforce Solutions, with input from the private sector and other state boards and commissions, was charged with developing policies and procedures to accomplish that goal, with timelines for implementation, and appropriate safeguards for small business.

Key Concepts and Rationale

In designing the reporting system, the Working Group followed eight principles:

1. The system should be conceptualized as an incentive for contractors -- the opportunity to bid on state contracts -- not a punishment.

2. So far as possible, the system should use data already gathered by contractors or readily accessible to them.

3. So far as possible, the system should overlap with existing reporting requirements.

4. The system should minimize contractor concerns about release of proprietary information.

5. The system should be simple so that even small contractors could participate without undue administrative burdens.

6. Reporting should be mandatory and uniform across all departments.

7. The State should provide technical assistance to contractors requesting it.

8. The reports should be subject to audit by an entity independent of individuals or departments involving in contracting (i.e. the Office of the State Auditor).

Within this general framework, much discussion focused on the range of contractors that should be required to report. It was decided to apply the requirement to all firms with at least 10 employees. Setting a low threshold ensured coverage of a large number of state contractors, many of which are quite small. In addition, it ensured coverage of contractors -- such as law

firms and accounting firms -- that might have sufficient employees for meaningful pay gap analyses because, although they have few total employees, those employees are concentrated in only one or two categories.

In addition to companies with fewer than 10 employees, several other categories of contract recipients are exempt from the reporting requirement: (1) government to government contracts; (2) entities granted emergency procurement contracts; and (3) out of state contractors providing goods or services without employees working in the state.[3] However, sole-source contractors are not exempt. Contractors that subcontract more than 10% of the value of the contract are also required to report data for subcontractors. In the case of procurements by purchase order, firms that accumulate $20,000 in a calendar year in combined purchase orders are also subject to the reporting requirement.

Methodology

During the first five months of 2010, the Working Group developed policies, procedures, and data collection tools, which were published on the State Purchasing website in May of 2010 and implemented beginning July 1, 2010. As a phase-in, all entities with 10 or more employees contracting with the State of New Mexico were required to submit a gender pay equity report upon notice of receiving a contract award. These were submitted after the award process was completed, so were not part of the response to solicitations or request for proposal (RFP) process.

Beginning October 1, 2010, gender pay equity reports were required to be submitted as part of the response to solicitations or request for proposal (RFP) process. The Office of the State Auditor has the authority to audit reports.

In keeping with the second and third key principles listed earlier in this section, it was decided that EEO-1 job categories[4] would be used for reporting. Many contractors and payroll processing firms are already familiar with these categories. Using them avoided the need for a new taxonomy and also avoided the difficulties of analyzing data for job titles or groupings not comparable across firms.

While many employers track race and ethnicity, not all do. Since the New Mexico initiative is ground-breaking and "keep it simple" is a watchword, it was decided initially to require only gender data. Recognizing that race and ethnicity are also major concerns, reporting should be extended to race and ethnic minorities in the future.

For similar reasons, employers are not required to report information on a range of worker characteristics -- such as education, experience, or job tenure -- that are likely to explain some part of reported wage gaps. Such data are often not routinely tracked by employers or not kept in

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[3]Employers with workers in the state are required to report for those employees performing duties within state borders regardless of the origin of paychecks or the residency of the workers.

[4]Contractors are provided with direct links to U.S. DOL for purposes of determining job categories for their workers.

a format that lends itself to easy reporting or analysis. The New Mexico system envisions these factors as more properly part of deeper investigations of wage disparities at individual contractors, rather than reporting requirements universal to all contractors.

The data each contractor is required to report consists of the number of employees by gender (including full- and part-time) in the same EEO-1 job category, and the gender pay gap (stated as a percent) in each of these categories. Individual compensation is not reported, nor are dollar totals or averages for each category. While no dollar amounts are reported, obviously they are required in order to produce the wage gap percentages. (See discussion below.)

The State of New Mexico has provided technical assistance in the form of downloadable spreadsheets for producing the reports. To assure uniform reporting and "apples to apples" comparison of gender wage gaps, formulas for computing the gaps are embedded in required spreadsheets, which are provided to employers on-line. Employers do not have flexibility as to reporting forms or formulas. Contractors enter average hourly wages by gender and job category taking into account hours worked (following detailed instructions for producing these averages[5]), into a Worksheet (See Appendix II for worksheets and reporting forms).

When the above figures are entered into the Worksheet for each gender and job category, gender wage gaps both in dollar amounts and percentages are then automatically calculated, and the results exported to the final report format (Appendix II). Contractors are instructed NOT to turn in Worksheets showing dollar amounts, but are encouraged to use these for internal tracking of potential compensation disparities between women and men.

Entering the appropriate numbers in the Worksheet assumes that employers have a method (e.g. accounting/payroll system) capable of classifying employees and aggregating compensation and hours worked by gender and job category.[6] Using this spreadsheet, employers can enter employee ID, job category, gender, full or part time, total annual compensation and total hours worked for each employee. Once these data have been entered, the Worksheet referenced above showing average compensation by gender and job category, along with percentage wage gaps, is automatically produced, and the final report submitted to the state is also automatically generated. Proprietary information is retained by contractors - only final pay equity reports are submitted to the state.

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[5]Average hourly wages in each job category are computed by adding the total compensation for all female workers (or all males) in that category, divided by the total hours worked by all females in the category. [E.g. Mary worked as a Craft Worker full time all year - 2,080 hours-and earned $25,000. Jill worked 6 weeks - 240 hours - and earned $3,000. Average hourly compensation for female Craft Workers is calculated by adding the two dollar totals and dividing by total hours $28,000/2320=$12.06 per hour]

[6]Should employers not have such a system to classify employees by job category, gender, time worked, and compensation levels, the state has also provided an alternative downloadable Employee Data Entry spreadsheet for performing the necessary calculations "from scratch."

It was decided that it would be improper and unfair to differentiate between gender wage gaps favoring women and those favoring men. Therefore, the reports submitted to the state contain only absolute percentage gaps by job category, without regard to which gender is favored

Data submitted to the state consists of number of employees by gender (full and part time) in EEO-1 job categories, and percentage gender pay gaps in each category. Individual compensation is not reported, nor are mean hourly wages by job category and gender. These data points are, however, needed for interim steps in producing the reports. Employers retain this information for their own use in correcting any gender pay gaps identified.

Bidding documents on state contracts, including the pay equity reports, are part of the public record. All bids, both successful and unsuccessful, are retained by State Purchasing for the duration of the contract period plus one year, after which they are archived. Currently all of these records, including pay equity reports, are paper records.

The Office of the State Auditor has oversight over both state agencies' implementation of the reporting requirement and reports submitted. Procedures for both are still under development, and no audits have taken place to date. To date, the requirement is simply to submit a report. Bids which fail to comply with the reporting requirements are disqualified.

RESULTS

Currently, New Mexico is the only state systematically studying gender wage gaps and implementing procedures to combat pay inequity by state contractors. Our experience can serve as a national model. While we are a small state, our contracting requirements and procedures are fairly standard, so policies and procedures used here can reasonably be exported to some degree to the federal government, as well as other states and municipalities.

Input from all stakeholders, in and out of the government, is key to success. Without buy-in from the departments affected, as well as individual senior officials (in the New Mexico case, the State Purchasing Agent, State Personnel Officer, Secretary of Tax and Revenue) a workable, fully operational system is unlikely. Having a pay equity reporting requirement "on the books" but ignored in reality would result in confusion for contractors and state officials alike. This could also possibly subject the state to litigation from the State Auditor (who has oversight), public interest groups concerned with disclosure, or contractors that complied when others did not.

The New Mexico initiative was implemented without adding additional state employees (one consultant was engaged to direct the Initiative). Although some staff expansion might be required in larger states where contracting departments let more contracts or interact with higher numbers of contractors, the increases should be modest.

Uniform requirements throughout the system are also critical, as any system where some contractors or contracting departments are subject to the requirement where others are not would be unworkable, and perhaps subject to legal challenge.

Other policies contributing to smooth implementation and widespread acceptance of the New Mexico requirement include: gradual phase-in, extensive technical assistance, use of familiar reporting categories, limited demands for proprietary data, and a focus on positive incentives.

Early experience is noteworthy for its lack of resistance by employers or reports of difficulties in complying. About 3,200 firms are covered by the requirements, ranging in size from Intel (a large employer, with more than 3,000 employees) to firms with only 10 employees. Over the first seven months of implementation, fewer than 50 contractors contacted the state for assistance in understanding the requirements or preparing their reports. Contractors now seem generally to have accepted the requirement as a normal part of the contracting process, and have lodged no substantial complaints.

Some employers have asked it they could submit additional data beyond what is required. This comes from concerns that pay disparities will look unfair, when in fact aggregation into EEO job categories may be at fault. For example, one large hospital employs professionals ranging from nurse practitioners to brain surgeons, but the categories are not fine enough to make the proper distinctions. The state is responsive to this concern. Although they are also required to submit the standard forms, employers are free to submit additional data that may clarify disparities that may result from data aggregation,. This additional information is expected to be valuable to the state when an incentive system (e.g. bonus points in contracting) is put in place as planned.[7]

Integration of pay equity reporting into the state's reporting system for tax filings for those contractors having an account in that system was begun. However, this integration was not completed, due to a change in state administrations. This method of reporting was to be optional, but it was expected to be a convenience for contractors, since it could be done online and integrated with existing state databases with contractor information.

[7]In keeping with the guiding principle that the system should be designed as an incentive, not a punishment, for contractors, and to minimize resistance on the part of contractors, the initial requirement is simply that the reports be submitted as part of responses to Request for Proposal (RFP) or Invitation to Bid (ITB) documents. These reports were to be studied for a period of 12 to 18 months with the goal of developing an incentive scoring system for future evaluation of contract bids. This phase of the Initiative has not gone forward due to a change in the state administration. While it has not been a priority of the current administration, it will be easy for the analysis to take place when it again becomes a priority. In fact, much more data than initially planned will be available.

POTENTIAL FOR REPLICATION

The New Mexico model can and should be exported and replicated. The consultant who directed the Initiative has had ongoing inquiries from several states and municipalities, including the city of New York, and the New York state government.

Executive and/or legislative support is critical to the success of any similar effort. Legislation is more permanent than executive or administrative action, but it can take years, if not decades to get such measures passed. In fact, no legislation requiring pay equity reporting or public disclosure of pay data by gender that we know of has become law in any state. While Executive Orders are subject to overturning by subsequent administrations, the danger of this is most likely exaggerated. (Executive Order 11246 addressing workplace discrimination by federal contractors, issued by President Johnson in 1965, is still in force.) Once an EO addressing pay equity, one of the highest concerns of women, is issued, there is little or no political upside for subsequent administrations to overturn it.

The City of Albuquerque is in the process of replicating the initiative at the city level. This will be done by city ordinance (passed unanimously in November, 2013 by a bi-partisan vote), and implemented in much the same way as it was done at the state level. Policies, procedures, and reporting forms are being imported directly from the state Initiative. A pay equity study of the city workforce has already been completed, and funds for a task force have been appropriated. Many of the city contractors are already reporting at the state level, so the requirement from the city will be neither complicated nor burdensome. Plans include development within six months of an incentive system for extra points to those contractors who exhibit smaller gender wage gaps than their competitors.

Albuquerque is the state's largest city, comparable in size to Miami, Atlanta, Denver, Baltimore, Milwaukee, Kansas City, Boston, and Omaha.

The County of Bernalillo (which includes Albuquerque) is also implementing a comparable initiative. In addition to those containing some of the cities above, counties of this size nationwide include those that contain the cities of Rochester, Birmingham, Providence, Stockton, Jersey City, and Fort Myers.

CONCLUSION

New Mexico's experience has shown that pay equity reporting by state contractors can be successfully implemented, and that it can be replicated at various levels of government.

Beyond fairness for women, men, and persons of color, support for such initiatives can be built on public policy benefits broader than ending pay discrimination alone. Fair wages benefit the tax bases and result in a healthier overall economy. By increasing wages, closing pay gaps can lower the burden on public services such as Medicaid, subsidized child care, and food stamps.

APPENDIX I

Links for the New Mexico Pay Equity Initiative

New Mexico General Services Administration Information Page for the Initiative:

Effective July 1, 2010, businesses seeking new contracts with any Executive Branch state agency will be required to comply with the requirements of Executive Order 2009-049, to aid in identifying and combating pay inequity and job segregation in the State of New Mexico, as a condition of being awarded a contract. Background and compliance information, as well as the necessary reporting forms, may be obtained from this web page.

http://www.generalservices.state.nm.us/uploads/FileLinks/3807450d09e04436ad92ac4534e7f125/Pay%20Equity%20_revkb_6-28-11.pdf

Topics covered (each has a separate link):

Quick Links to Key Documents

Executive Order 2009-049: December 18, 2009
E.O. Implementation Guidance: April 26, 2010 (pdf)
E.O. Implementation Guidance: April 26, 2010 (doc)
Pay Equity Reporting - Contractors with Less Than 10 Employees
Pay Equity Reporting Form: October 1, 2010 and After - Contractors with 10 or More Employees (PE10-249 Form)

- *PE10-249 Form Worksheet (xls)*
- *PE10-249 Form Worksheet Instructions (pdf)*
- *PE10-249 Employee Data Entry Form (xls)*
- *PE10-249 Employee Data Entry Form Instructions (pdf)*

Pay Equity Reporting Form: October 1, 2011, and After - Contractors with 250 or More Employees (PE250 Form)
Description of Job Categories
Frequently Asked Questions for Contractors
Governor's Pay Equity Task Force Report: September 30, 2009

APPENDIX II
Pay Equity Reporting Worksheets and Forms

Worksheet Employee Data Entry Spreadsheet
Used by Contractors but Not Submitted to the State

Employer Data Entry Form

Emp. ID (Name or Number)	Job Category Number	Gender (m or f)	Full/Part (ft or pt)	Total Annual Compen-sation ($)	Total Annual Hours

Job Category numbers to use:
1 - Officers and Managers
2 - Professionals
3 - Technicians
4 - Sales Workers
5 - Office and Admin. Support
6 - Craft Workers (Skilled)
7 - Operatives (Semi-Skilled)
8 - Laborers (Unskilled)
9 - Service Workers

Employer to enter data here:

Company Name:	
Mailing address line 1:	
Mailing address line 2:	
City, state, zip code:	
Phone:	
E-mail address:	
FEIN number:	
EAN number:	
SHARE vendor number:	
Reporting calendar year:	

After data entry is complete, SAVE YOUR FILE.
Excel 2007 users: in menu bar click on "Data" then click "Refresh All"; RESAVE YOUR FILE
For earlier versions of Excel (1997-2003) refer to "PE10-249 Employee Data Entry Form Instructions" (pdf)

Interim Information Sheet Automatically Generated for Employer Use, Not Submitted to the State

Pay Equity Report PE10-249 Worksheet

Company name:	0
Mailing address line 1:	0
Mailing address line 2:	0
City, state, zip code:	0
Phone:	0
E-mail address:	0
FEIN number:	0
EAN number:	0
SHARE vendor number:	0
Reporting calendar year:	0

Job Category	No. Females	Female Grand Total Comp.	Female Grand Total Hours	Female Avg	No. Males	Male Grand Total Comp.	Male Grand Total Hours	Male Avg	Gap (Absolute $)	Gap (Absolute %)
1 - Officers and Managers	0	0	0	N/A	0	0	0	N/A	N/A	N/A
2 - Professionals	0	0	0	N/A	0	0	0	N/A	N/A	N/A
3 - Technicians	0	0	0	N/A	0	0	0	N/A	N/A	N/A
4 - Sales Workers	0	0	0	N/A	0	0	0	N/A	N/A	N/A
5 - Office and Admin. Support	0	0	0	N/A	0	0	0	N/A	N/A	N/A
6 - Craft Workers (Skilled)	0	0	0	N/A	0	0	0	N/A	N/A	N/A
7 - Operatives (Semi-Skilled)	0	0	0	N/A	0	0	0	N/A	N/A	N/A
8 - Laborers (Unskilled)	0	0	0	N/A	0	0	0	N/A	N/A	N/A
9 - Service Workers	0	0	0	N/A	0	0	0	N/A	N/A	N/A

Total # Job Categories With No Employees	9
Total # Female Only Job Categories	0
Total # Male Only Job Categories	0
Total # Females (all categories)	0
Total # Full Time Females	0
Total # Part Time Females	0
Total # Males (all categories)	0
Total # Full Time Males	0
Total # Part Time Males	0
Total # Employees	0
% of Total for Females	
% of Total for Males	

Submitted to the State of New Mexico

Pay Equity Reporting Form PE10-249

Company name:	0
Mailing address line 1:	0
Mailing address line 2:	0
City, state, zip code:	0
Phone:	0
E-mail address:	0
FEIN number:	0
EAN number:	0
SHARE vendor number	0
Reporting calendar year:	0

Job Category	No. Females	No. Males	Gap (Absolute %)
1 - Officers and Managers	0	0	N/A
2 - Professionals	0	0	N/A
3 - Technicians	0	0	N/A
4 - Sales Workers	0	0	N/A
5 - Office and Admin. Support	0	0	N/A
6 - Craft Workers (Skilled)	0	0	N/A
7 - Operatives (Semi-Skilled)	0	0	N/A
8 - Laborers (Unskilled)	0	0	N/A
9 - Service Workers	0	0	N/A

Total # Job Categories With No Employees	9
Total # Female Only Job Categories	0
Total # Male Only Job Categories	0
Total # Females (all categories)	0
Total # Full Time Females	0
Total # Part Time Females	0
Total # Males (all categories)	0
Total # Full Time Males	0
Total # Part Time Males	0
Total # Employees	0
Female % Workforce	
Male % Workforce	

Document must be signed by the principal executive of the company:

ITB #:_____ RFP#_____ PO# _____

Name and title, printed Signature Date

Appendix III

State of New Mexico Executive Order 2009-049
Fair and Equal Pay for All New Mexicans

State of New Mexico
Office of the Governor

Bill Richardson
Governor

EXECUTIVE ORDER 2009-049

FAIR AND EQUAL PAY FOR ALL NEW MEXICANS

WHEREAS, pay equity gaps exist when men and women do the same or comparable work yet are paid disparate wages;

WHEREAS, job segregation refers to a situation where any given job title or category is predominately, or totally, held by one gender or the other;

WHEREAS, it is the policy of the State of New Mexico to identify and combat pay inequity and job segregation;

WHEREAS, the negative impact of pay inequity and job segregation affects thousands of New Mexican families, and also has a significant impact on the State, through the provision of various public subsidies for low income residents;

WHEREAS, the Richardson Administration has taken significant steps to address pay gaps between men and women and to reduce job segregation. Such steps include appointing in 2003 the New Mexico Pay Equity Task Force to identify issues surrounding pay equity in the State of New Mexico, raising the State minimum wage, and supporting unions;

WHEREAS, in a further effort to identify and combat pay inequity and job segregation, Governor Richardson appointed a Senior Policy Advisor on Women's Issues and ordered a study of State classified employees' wages be conducted. This study evaluated aggregate data on employment in the classified system and pay by gender and job category throughout the State of New Mexico classified workforce;

WHEREAS, the Richardson Administration also appointed in 2009, the Task Force on Fair and Equal Pay to consider specific recommendations for legislative, regulatory, and other initiatives to further investigate, close or eliminate gaps in pay and job segregation for individuals employed in the State classified system; develop training and other resources for State agencies to effectively close or eliminate any gaps in pay and job segregation; develop systems for private employers to use to measure and remedy possible pay gaps and job segregation; and develop goals and timelines in which the State of New Mexico may close or eliminate pay gaps in the classified system and reduce job segregation;

WHEREAS, the Task Force on Fair and Equal Pay was also tasked with researching and reporting on methods and procedures for requiring entities holding contracts with the State to study and remedy any pay equity and job segregation issues within their own businesses, including reasonable accommodations for small business and timelines for implementation;

WHEREAS, the Task Force on Fair and Equal Pay submitted its Report to the Office of the Governor in September 2009, substantiating the preliminary findings of the Task Force. Namely, that the State's classified employment system has for the most part eliminated serious pay inequity. Further, where pay equity gaps exist in the classified system, such gaps, while not acceptable, are substantially below national averages;

WHEREAS, while it is important to establish pay equity within the State system, it is also fair and reasonable to require the same for those entities that seek valuable contracts with the State of New Mexico;

WHEREAS, New Mexico strives to be a leader in the United States when it comes to pay equity, as the goal of pay equity is not to decrease the wages of any employee or group of employees, but to ensure fair and equal pay for all workers.

NOW THEREFORE, I, Bill Richardson, Governor of the State of New Mexico, by virtue of the authority vested in me by the Constitution and the laws of the State of New Mexico, do hereby direct the following:

1. The State Personnel Office ("SPO") to prepare and submit to the Governor an annual Fair and Equal Pay Report including pay information for every Executive Agency; such Reports should identify any pay gaps that exist at the individual Agency level. The first Fair and Equal Pay Report shall be submitted by SPO no later than December 31, 2010. Thereafter, annual reports shall be submitted to the Governor's Office no later than October 1 of each year. Further, SPO shall develop templates for Agencies to use in addressing and, eliminating non job-related pay gaps in the state classified system. Reports may be of the same type SPO provided for the Pay Equity Study of the state classified workforce completed in 2009.

2. Each Executive Agency is directed to review the annual Report and submit plans to SPO for overcoming any non job-related pay gaps. SPO shall, when requested, provide technical assistance to Agencies in achieving their goals.

3. By February 28, 2010, a Working Group consisting of the Secretaries or their designees of the General Services Department, the Department of Finance and Administration, the Economic Development Department, the State Personnel Office and Dr. Martha Burk, Senior Advisor for Women's Issues to the Governor, will develop definitions and reporting format requirements for contractors who will be required to submit reports as directed by this Executive Order.

A. The definitions to be developed by the Working Group will include, but not be limited to, the terms "contractor," "New Mexico employee," "job title," job classification," and "pay band;"

B. The Working Group is also charged with identifying classes of contracts for which pay equity reports may be irrelevant, if any;

C. Effective January 1, 2010, Executive Branch Agencies with state contracts including approved vendor relationships solicited or awarded will require contractors with 10 or more employees to file a pay equity report on or before July 1, 2010, with the State of New Mexico, and annually thereafter for multi-year contracts. Contractors with fewer than 10 employees but at least 8 individuals doing the same job may be required to file reports at the discretion of the Working Group. For contracts awarded after July 1, 2010, but before January 1, 2011, reports will be due on the date of the contract award. Beginning January 1, 2011, reports will be part of the Request for Proposal process as outlined below. Reports filed in 2010 will be informational only. Uniform reporting instructions and criteria will be provided by the State of New Mexico in advance of the first reporting deadline. Technical assistance to those companies requesting it will also be provided.

D. By October 1, 2010, the Working Group will develop a system for incentivizing progress toward pay equity in the scoring of Requests For Proposals, and other bidding processes; such incentive programs will be standardized across all Executive Agencies. The incentive system will recognize that certain work related factors (e.g. seniority, piece rates) may contribute to pay disparities, and provide an appropriate mechanism for contractors to explain such work related disparities;

E. The Working Group will also develop guidelines and prospective timelines for inclusion of race and ethnicity data in future pay equity reports insofar as feasible.

F. Effective no later than January 1, 2011, the State of New Mexico will institute an incentive point system to apply in scoring of Requests For Proposals, and other bidding processes, for overcoming gender pay gaps that are not due to job-related factors.

G. Information in the pay equity reports, including explanations of job-related pay disparities, must be certified by the principal executive officer of the contracting company, and will be subject to audit by the New Mexico State Auditor.

H. When drafting the uniform instructions and criteria, the Workgroup will mandate information in pay equity reports including but not limited to:

1. the number of employees;

2. the percentage of each gender in the workforce; and

3. the number of each gender in each job title, pay band, or similar job classification system as determined in implementing definitions and guidelines instituted by the Working Group;

4. the percentage of gender pay gaps, if any, by job title, job category, or pay band, or similar job classification system, as determined in implementing definitions and guidelines instituted by the Working Group.

I. The Working Group is prohibited from requiring in pay equity reports:

1. dollar amounts paid to any individual employee, and

2. the average or actual dollar amounts paid to any group of employees.

4. The State of New Mexico will provide technical assistance to contractors and prospective contractors for complying with this Order.

5. The Working Group shall be an advisory body that makes recommendations to the Governor and in no event shall it make final decisions regarding policy.

6. Working Group members shall serve voluntarily and shall receive no pay for their services, nor shall they be reimbursed for travel or subsistence expenses, unless otherwise provided by law.

7. Nothing in this Executive Order is intended to create a private right of action to nforce any provision of this Order or to mandate the undertaking of any particular action pursuant to this Order; nor is this Order intended to diminish or expand any existing legal rights or remedies.

THIS ORDER supersedes any other previous orders, proclamations, or directives in conflict. This Executive Order shall take effect immediately and shall remain in effect until such time as it is rescinded by the Governor.

ATTEST:

MARY HERRERA
SECRETARY OF STATE

DONE AT THE EXECUTIVE OFFICE
THIS 18th DAY OF DECEMBER, 2009

WITNESS MY HAND AND THE GREAT
SEAL OF THE STATE OF NEW MEXICO

BILL RICHARDSON
GOVERNOR